

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LYWAYNE MARQUIS SCOTT,

Plaintiff,

v.

SCOTT LEWIS, et al.,

Defendants,

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No. 4:18-cv-00372-ACL

MEMORANDUM AND ORDER

This matter is before the Court on the motion of plaintiff Lywayne Marquis Scott for leave to proceed in forma pauperis on appeal. (Docket No. 28). Having reviewed the motion and the financial information submitted in support, the Court has determined that plaintiff lacks sufficient funds to pay the entire appellate filing fee and will assess an initial partial filing fee of \$53.34.

28 U.S.C. § 1915(b)(1)

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing an appeal in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his prison account to pay the entire fee, the Court must assess, and when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposit in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10.00, until the filing fee is fully paid. *Id.*

Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding the filing of his notice of appeal. (Docket No. 29). A review of plaintiff's account statement indicates an average monthly deposit of \$266.68. Accordingly, the Court will assess an initial partial filing fee of \$53.34, which is 20 percent of plaintiff's average monthly deposit.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis on appeal (Docket No. 28) is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall pay an initial filing fee of \$53.34 within thirty (30) days of the date of this Order. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for the appeal of the instant action.

Dated this 10th day of February, 2020.



ABBIE CRITES-LEONI
UNITED STATES MAGISTRATE JUDGE